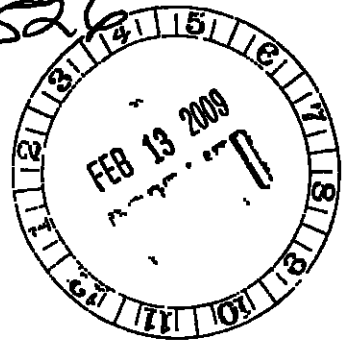


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LAW OFFICES  
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February 13, 2009

BY HAND

Hon. Anna K. Quinlan,  
Acting Secretary  
Surface Transportation Board  
395 E Street, S.W.  
Washington, D.C. 20423

**RE: STB Finance Docket No. 35144 Wisconsin & Southern  
Railroad Co.-Acquisition and Operation Exemption-Union  
Pacific Railroad Company**

Dear Ms. Quinlan:

On behalf of Wisconsin & Southern Railroad Co., I am submitting an original and ten copies of a verified petition for acquisition and operation exemption together with a certificate of compliance with 49 CFR 1121.4(h) and a labor notice. In addition, I am enclosing a check for \$6,600 to cover the filing fee pursuant to 49 CFR 1002.2 (f)(14)(iii) and a copy of this filing on a disk formatted in MS Word.

Please date stamp and return one copy of this letter.

Sincerely yours,

A handwritten signature in black ink, appearing to read "J. D. Heffner".

John D. Heffner  
Counsel

Enclosures

cc: Mack H. Shumate, Jr., Esq.  
Kathleen Chung, Esq.

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

**STB Finance Docket No. 35144**

**WISCONSIN & SOUTHERN RAILROAD CO.  
-- ACQUISITION AND OPERATION EXEMPTION --  
UNION PACIFIC RAILROAD COMPANY**

**VERIFIED PETITION FOR EXEMPTION  
UNDER 49 U.S.C. 10502  
FROM 49 U.S.C. 10902**

John D. Heffner  
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1750 K Street, N.W.  
Suite 200  
Washington, D.C. 20006  
Telephone: (202)296-3334

James H. M. Savage  
Of Counsel

Counsel for Petitioner  
Wisconsin & Southern  
Railroad Co.

Dated: February 13, 2009

**EXPEDITED HANDLING REQUESTED**

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

**STB Finance Docket No. 35144**

**WISCONSIN & SOUTHERN RAILROAD CO.  
-- ACQUISITION AND OPERATION EXEMPTION --  
UNION PACIFIC RAILROAD COMPANY**

**VERIFIED PETITION FOR EXEMPTION  
UNDER 49 U.S.C. 10502  
FROM 49 U.S.C. 10902**

I.

**INTRODUCTION**

Pursuant to 49 U.S.C. 10502, Wisconsin & Southern Railroad Co. ("WSOR" or "Petitioner"), an existing class II regional railroad, seeks an exemption from 49 U.S.C. 10902 permitting it to acquire and operate a permanent exclusive freight operating easement ("the freight easement") over approximately 10.95 miles of railroad known as the Kohler Industrial Lead (hereafter "the Line") currently owned by the Union Pacific Railroad Company ("UPRR"). The State of Wisconsin Department of Transportation ("WisDOT") has executed an agreement to purchase the right-of-way and railroad assets comprising the Line from UPRR with WSOR to acquire the freight easement and associated common carrier obligation directly from UPRR. Concurrently with this filing, WisDOT is submitting a Petition for Declaratory Relief seeking a ruling that its acquisition of the right-of-way and railroad

assets will not render it a rail common carrier under State of Maine<sup>1</sup> and similar agency precedent involving the acquisition of active rail lines by public agencies.

Additionally and as part of this transaction, WSOR will in its own right acquire from UP and operate about 1,000 feet of spur track, constituting the lead to the Cargill Malt Plant (formerly the Schreier Malting Plant) at Kohler, WI.<sup>2</sup> Finally, WSOR is simultaneously filing a verified notice of exemption<sup>3</sup> covering its acquisition of overhead trackage rights from UPRR between MP 4.0 near Kohler and MP 1.2 at Kohler Junction, in Sheboygan County, WI (the "Overhead Trackage Rights") to permit WSOR to access the UPRR Spur as hereinafter defined to the Cargill Malt Plant as well as to interchange freight with UPRR over UPRR's Access Trackage and Interchange Trackage as depicted on Exhibit A. WSOR submits as Exhibit A a map depicting the location of the Line, the Overhead Trackage Rights, the UPRR Spur, the Access Trackage and the Interchange Trackage, and as Exhibit B, a map depicting the entire WSOR system.

The procedures set forth in the Board's Decision regarding Disclosure of Rail Interchange Commitments<sup>4</sup> do not apply as there is no provision in the UPRR sale and lease agreements restricting WSOR's future interchange with a third party

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<sup>1</sup> See, e.g., Maine, DOT--Acq. Exemption, Me. Central R. Co., 8 I.C.C.2d 835 (1991) (State of Maine)

<sup>2</sup> The postal address of the facility is 704 S. 15<sup>th</sup> Street, Sheboygan, WI 53081. Per UPRR, this spur track was formerly referred to as "the Schreier Lead". For purposes of this transaction, the trackage will be referred to as "the UPRR Spur".

<sup>3</sup> STB Finance Docket No. 35191.

<sup>4</sup> STB Docket No. EP-575-1 (served May 29, 2008).

carrier. There are two interchange points: UPRR with WSOR at Sheboygan and WSOR with UPRR at Kohler Junction.

For the reasons stated below, WSOR requests expedited consideration, with a decision to be issued on or about April 15, 2009, effective upon service.

## II.

### FACTUAL BACKGROUND

Petitioner is an existing class II railroad common carrier operating over 700 miles of trackage in Wisconsin and adjacent northern Illinois. Originally established in 1980 to operate segments of the former Milwaukee Road that were being abandoned and subsequently acquired by the State of Wisconsin, WSOR has grown substantially over the past 28 years. Starting as a class III short line rail carrier operating 93 miles of track in central Wisconsin, WSOR eventually assembled a network of rail lines serving the southern half of the State consisting of routes formerly operated by Canadian Pacific Railway (or its predecessor the Milwaukee Road), Canadian National Railway (or its predecessor Wisconsin Central LTD), and Union Pacific Railroad Company (or its corporate predecessor the Chicago & North Western Railway). In 1992, WSOR's owner and President William Gardner acquired control of another Wisconsin-based class III short line railroad, the Wisconsin & Calumet Railroad

(WICT) serving southern Wisconsin and adjacent northern Illinois. In 1996, WSOR merged WICT's operations and properties into WSOR, leaving WSOR as the surviving company.<sup>5</sup> WSOR also acquired several sets of trackage rights from other railroads for the purpose of connecting all of these lines. Early in 2003, WSOR's revenues increased to the point where it became a small class II railroad. In 2005 WSOR expanded again when WisDOT purchased the middle portion (Kiel-to-Saukville) of CN's former Wisconsin Central line from Hilbert south to North Milwaukee and selected WSOR as the operator on that line and WSOR acquired overhead rights from CN between Saukville and North Milwaukee to connect the Kiel-to-Saukville Line to the rest of its system.

The proposed transaction includes the acquisition and operation of the Line, a railroad line that has been out of service for many years.

Here the State of Wisconsin through WisDOT (instead of WSOR) will purchase the right-of-way and railroad assets constituting the railroad from UP and will contract with the East Wisconsin Counties Railroad Consortium ("the Consortium") to provide service over the Line. The Consortium has in turn

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<sup>5</sup> See, Wisconsin & Southern Railroad Co.-Corporate Family Transaction Exemption-Wisconsin and Calumet Railroad Company, STB FD No. 33450 (served September 5, 1997).

selected WSOR to provide that service as its contract operator. By this Petition for Exemption, WSOR seeks Board authority to acquire the freight easement directly from UPRR as well as UPRR's common carrier obligation. WSOR will rehabilitate and restore to service the approximately 10.95 miles of out of service track and will market the Line to former customers and new customers. The Line will connect at Plymouth with WSOR's north-south Kiel-to-Saukville Line. Additionally, WSOR will acquire and restore access and service to the UPRR Spur to the Cargill Malt Plant (the "UPRR Spur") at Kohler, Wisconsin. In order for WSOR to reach the UPRR Spur, WSOR seeks overhead trackage rights on UPRR's Line as discussed below.

Concurrently with this filing, WisDOT is petitioning the Board for a declaratory ruling permitting it to acquire the right-of-way and railroad assets which make up the Line as a non-carrier outside the Board's jurisdiction and without acquiring any common carrier obligation.<sup>6</sup>

Finally, as noted above, WSOR will shortly be filing a Verified Notice of Exemption with the Board covering UPRR's grant of the Overhead Trackage Rights between MP 4.0 at Kohler

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<sup>6</sup> WSOR understands that WisDOT will be submitting for Board review a copy of the pertinent transaction documents including the UPRR/WisDOT purchase agreement, the UPRR grant of easement to WSOR, and the Operating and Land Use Agreement between the Consortium and WSOR. Collectively, these agreements establish that WSOR is the entity with the common carrier responsibility for providing service over the Line and that WisDOT has no ability to control WSOR's service or operations over the Line.

and MP 1.2 at Kohler Junction. These Overhead Trackage Rights will allow WSOR to operate its trains over UP's trackage to reach the UPRR Spur and UPRR's Access Trackage and Interchange Trackage as depicted on Exhibit A for the purpose of interchange with UP.

WSOR is unique among short lines and regional railroads in that it acquires vacant industrial sites for the purpose of enticing rail-served customers to locate there and use its services. WSOR anticipates that the Line and adjacent real estate will provide an excellent location with which to attract new or relocating industry resulting in new job opportunities and economic development for this area. Based upon its success in developing industrial sites at other locations around its system, WSOR believes, as a smaller, locally-based carrier offering more frequent and customer-focused service, it will be able to attract customers to the Line.

### III.

#### ADDITIONAL INFORMATION

So that the Board may expeditiously process its request, WSOR provides the following additional information about the transaction:

(1) The full name and address of the Petitioner is Wisconsin & Southern Railroad Co., P.O. Box 90229, Milwaukee, WI 53209-0229.



(2) The name, address, and telephone number of the representative of the Petitioner who should receive correspondence is John D. Heffner, John D. Heffner, PLLC, 1750 K Street, N.W., Suite 200, Washington, D.C. 20006. Petitioner counsel's phone number is (202) 296-3334.

(3) The full name and address of the railroad selling the easement and the spur is the Union Pacific Railroad Company, 1400 Douglas Street, Omaha, Nebraska. Representative for UP is Mack H. Shumate, Jr., (312) 777-2055.

(4) The parties propose to consummate this transaction as soon as possible, hopefully on or about April 15, 2009.<sup>7</sup>

(5) The freight easement to be acquired over the Line extends eastward from a connection with WSOR's north-south Kiel-to-Saukville Line at MP 14.95 at Plymouth, WI, to MP 4.0 near Kohler, WI. Additionally, WSOR will in its own right acquire from UP and operate the UPRR Spur, constituting the lead to the Cargill Malt Plant at Kohler, WI.

(6) Maps indicating the location of the Line, the Overhead Trackage Rights, the UPRR Spur, the Access Trackage and the Interchange Trackage and the WSOR system are attached hereto as Exhibits A and B, respectively.

(7) After the transaction is consummated, WSOR will continue to be a class II carrier.

(8) The Board's procedures set forth in its Decision

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<sup>7</sup> The labor notice required under 49 CFR 1121.4(h) will be posted by UP and served by WSOR on the affected unions at least 60 days before the consummation date of this transaction. WSOR will certify this information to the Board once posted and served.

regarding Disclosure of Rail Interchange Commitments<sup>8</sup> do not apply as there is no provision in the UPRR sale and lease agreements restricting WSOR's future interchange with a third party carrier. There are two interchange points: UPRR with WSOR at Sheboygan and WSOR with UPRR at Kohler Junction.

#### IV.

##### ARGUMENT

##### THE ACQUISITION AND OPERATION OF THE SUBJECT EASEMENT AND TRACKAGE SHOULD BE EXEMPTED

Petitioner seeks an exemption under 49 U.S.C. 10502 from 49 U.S.C. 10902 to permit it to purchase and operate the freight easement on approximately 10.95 miles of trackage (the Line) that WisDOT is acquiring as a noncarrier. Additionally, WSOR seeks to purchase and operate the UPRR Spur, the track constituting the lead to the former Cargill Malt Plant at Kohler, WI, to operate over the Overhead Trackage Rights between MP 4.0 at Kohler and MP 1.2 at Kohler Junction. But for the exemption of 49 U.S.C. 10502, WSOR's transaction would require the Board's authorization under 49 U.S.C. 10902 applicable to the purchase and operation of actively used railroad lines by existing class II and III rail carriers. Under §10902(c), the Board shall issue a certificate authorizing a class II carrier to acquire an additional line of railroad unless the Board finds

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<sup>8</sup> STB Docket No EP-575-1 (served May 29, 2008).

that the transaction is inconsistent with the public convenience and necessity.

Petitioner believes that its request is appropriate for exemption from the formal requirements of §10902. Section 10502 directs the Board to grant an exemption from regulation if it finds that (1) regulation is not necessary to carry out the transportation policy of §10101(a) and (2) either (a) the transaction or service is of limited scope, or (b) the application of a provision of this subtitle is not needed to protect shippers from the abuse of market power. Indeed, the legislative history behind §10505 (the predecessor section to the current §10502) makes clear Congress' intent that the Interstate Commerce Commission (and now the Board) use its exemption authority liberally to free certain transactions and services from the administrative and financial costs associated with continued regulation.

In discussing the exemption powers of the Board's predecessor -- the ICC -- the Staggers Act legislative history states:

The policy underlying this provision is that while Congress has been able to identify broad areas of Commerce where reduced regulation is clearly warranted, the Commission is more capable through the administrative process of examining specific regulatory provisions and practices not yet addressed by Congress to determine where they can be deregulated consistent with the policies of Congress. The conferees expect that, consistent with the policies of this Act, the Commission will pursue partial and

complete exemptions from remaining  
regulation.

H.R. Rep. No. 96-1430, 96th Cong. 2d Sess. 105 (1980); see also, Exemption from Regulation--Boxcar Traffic, 367 I.C.C. 424, 428 (1983), vacated and remanded on other grounds, Brae Corp. v. United States, 740 F.2d 1023 (D.C. Cir. 1984). This statement applies equally to the Board as the ICC's successor.

Exemption of the proposed transaction from §10902 is exactly the type of minor transaction Congress contemplated when it enacted §10502. Requiring WSOR to submit a formal application is not necessary to carry out the transportation policy of 49 U.S.C. 10101a. A grant of the exemption will further several goals of the I.C.C. Termination Act including §10101a (2) and (7), minimizing federal control over transportation and reducing regulatory barriers to entry. A grant will also facilitate the goals of §10101a (5) and (9) providing for sound economic conditions in the transportation industry and honest and efficient management of railroads. WSOR's purchase and operation will permit a locally-based carrier with strong ties to Wisconsin to rehabilitate and restore to operation the Line and collect local traffic which can then be funneled efficiently to UPRR and other class I carriers for longer haul distribution over the national railroad system.

Granting WSOR's request also satisfies both the limited scope and the no abuse of captive shippers tests of the § 10502 exemption provision. The total length of the Kohler Industrial

Lead (the Line) is only about 10.95 miles. The UPRR Spur accessing the Cargill Malt plant is only about 1,000 feet in length and clearly the UPRR Spur is "limited" in scope.

WSOR's current system connects with each of the six largest Class I railroads, and WSOR operates via trackage rights into Chicago, where it connects with the lines of six of the seven of the nation's largest railroads. Because WSOR operates as a neutral "feeder" railroad with multiple Class I connections, WSOR's rail service would increase the competitive options available to shippers that locate on the Line and the UP Spur. In this case, customers would have access to either UP at Sheboygan or CN at either Kiel or Saukville or other carriers through WSOR's connections in Milwaukee or Chicago. For these reasons, WSOR's operation of the Line and purchase and operation of the UPRR Spur will not result in an abuse of market power.

In 1996, the Board promulgated a class exemption entitling class III carriers to acquire and/or operate actively used rail lines without having to undergo the expense and burden of submitting either a formal application or an individual petition for exemption for operating authority. Class Exemp. For Acq. Or Oper. Under 49 U.S.C. 10902, 1 S.T.B. 95 (1996). Had WSOR still been a class III carrier at the time of this filing, it would have been entitled to avail itself of that class exemption. Due to the unfortunate absence of such a class exemption for the purchase and operation of actively used lines by class II carriers, WSOR must file an individual petition for exemption. But the reasons for granting the exemption sought here are the

same as those applicable to a grant of the class exemptions discussed above. Moreover, the Board has on previous occasions exempted similar purchase or lease and operation transactions by class II carriers involving a miniscule amount of trackage. In fact, in Wisconsin & Southern Railroad Co. - Acquisition Exemption - Iowa, Chicago & Eastern Railroad Corporation, STB Finance Docket No. 34464, served June 30, 2004, the Board exempted WSOR's acquisition of about 7 miles of yard trackage in Janesville, WI, that it had long operated under a lease.

#### V.

##### EMPLOYEE PROTECTION; CERTIFICATION OF NOTICES

This transaction will be subject to the employee severance conditions described in 49 U.S.C. 10902(d) as set forth in Wisconsin Central Ltd-Acquisition Exemption-Union Pacific Railroad, 2 S.T.B. 218 (1997), rev'd in part sub nom. Association of American Railroads v. STB, 162 F.3d 101 (D.C. Cir. 1988).

Under 49 CFR 1121.4(h) WSOR is required to post and serve a notice of intent at least 60 days before the exemption becomes effective. WSOR will serve a letter on the Board certifying that it had complied with the notice and posting requirements of 49 CFR 1121.4(h) once it has done so.

#### VI.

##### ENVIRONMENTAL AND HISTORIC IMPACTS UNDER 49 CFR 1105

Pursuant to 49 CFR 1105.6(c) (2), the proposed transaction is exempt from environmental review under 49 CFR 1105(c) (2) (1), because the actions proposed herein will not cause any operating changes that exceed the thresholds established in 1105.7(e) (4) or (5).

In addition, this transaction is exempt from historic review under 1105.8(b) (1). Under this section, a sale, lease or transfer of a rail line is exempt if rail operations will continue. Further Board approval is required for the parties to abandon service, and there are no plans to dispose of or alter the properties subject to Board jurisdiction.

## VII.

### EXPEDITED CONSIDERATION REQUESTED

As noted in the introduction to this Petition, WSOR seeks an expedited decision granting its request effective upon service. In support of that request, WSOR notes that 1) the trackage to be transferred needs substantial rehabilitation which must be performed during the warm weather months of late late Spring and summer; undue delay could jeopardize the completion of that work, 2) the transaction is minor in scope and uncontroversial in impact, and 3) the transaction will not result in any significant changes in operations or competitive

impact.

VIII.

CONCLUSION .

Accordingly, WSOR requests that the Board grant it an exemption from the provisions of 49 U.S.C. 10902 to permit it to acquire the specified interests and operate on the subject Line, the Overhead Trackage Rights, the UPRR Spur, the Access Trackage and Interchange Trackage consistent with the agreements covering same between UPRR and WSOR with a decision issued on or about April 15, 2009, effective upon service.

Respectfully submitted,

John D. Heffner  
John D. Heffner, PLLC  
1750 K Street, N.W.  
Suite 200  
Washington, D.C. 20006  
Telephone: (202)296-3334

James H. M. Savage  
Of counsel

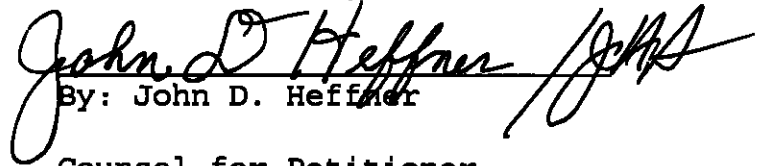
Counsel for Petitioner  
Wisconsin & Southern  
Railroad Co.

Dated: February 13, 2009



counsel.

Respectfully submitted,  
John D. Heffner, PLLC

  
By: John D. Heffner

Counsel for Petitioner  
Wisconsin & Southern  
Railroad Co.

JDH/JHS/mhd

Enc.

cc: Mack Shumate, Esq. (w/enc.)  
Kathleen Chung, Esq. (w/enc.)

VERIFICATION

STATE OF WISCONSIN )  
 ) SS  
COUNTY OF MILWAUKEE )

I, Timothy Karp, being duly sworn according to law, hereby depose and state that I am authorized to make this Verification, that I have read the foregoing document, and that I know the facts asserted therein are true and accurate as stated, to the best of my knowledge, information and belief.

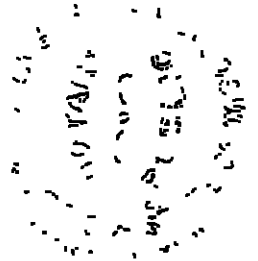
Timothy Karp

Subscribed and sworn to before me, a Notary Public, in and for the City and County of Milwaukee, in the State of Wisconsin, this 12<sup>th</sup> day of ~~October~~, 2008.  
February, 2009

Robert J. Roberts  
Notary Public

My Commission expires:

April 17, 2011



STB Finance Docket No. 35144

WISCONSIN & SOUTHERN RAILROAD CO.

NOTICE OF INTENT TO ACQUIRE RAIL LINES

PURSUANT TO 49 U.S.C. 10902 AND  
49 CFR 1121.4(h)

Pursuant to Surface Transportation Board regulations at 49 CFR 1121.4(h), Wisconsin & Southern Railroad Co. (WSOR), hereby offers notice to employees of the Union Pacific Railroad Company (UPRR) that on or after April 15, 2009, WSOR proposes to acquire and operate upon, over, under and across a permanent exclusive freight easement conveyed by the UPRR for WSOR to provide freight service upon the following line of railroad (the Line) which the Wisconsin Department of Transportation intends to purchase from UPRR:

The Line beginning at the connection with WSOR's north-south Kiel-to-Saukville Line at UPRR Milepost 14.95 at Plymouth, and extending eastward to UPRR Milepost 4.0 near Kohler, all within the County of Sheboygan, State of Wisconsin.

Additionally, WSOR hereby offers notice that on or after April 15, 2009 it will acquire by purchase from UPRR and operate in its own right the following line of railroad, including yard and ancillary tracks and structures:

Approximately 1,000 feet of track, constituting the UPRRR lead to the Cargill Malt Plant at 704 S. 15<sup>th</sup> Street, Kohler WI.<sup>1</sup>

The trackage over which WSOR proposes to operate totals over 10 miles including the easement and spur which WSOR proposes to purchase.

WSOR currently projects that it will hire the following employees to operate over the Line as needed:

1. Engineer(s) at an annual salary of approximately \$46,000-58,000;

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<sup>1</sup> WSOR believes this trackage may constitute "excepted track" under 49 U.S.C. 10905 for which no purchase authority is required. If so, no labor notice would be required.

2. Trainmen at an annual salary of approximately \$43,000-54,000; and
3. Maintenance of way personnel at an annual salary of approximately \$25,000-37,000.

WSOR will offer:

- Dental, medical, and disability plans
- Expense reimbursement
- Holidays
- Earned time off in lieu of vacation, sick, and certain other types of leave
- Family and medical leave
- Jury duty
- Military leave
- 401(k) plan

WSOR will select any new employees on the basis of:

- Current certifications held
- Railroad job knowledge
- Skills and ability
- Previous work experience

Any UPRR employee interested in further information concerning positions available with WSOR should contact WSOR Human Resources Director, Suzanne Immel at (414) 438-8820 ext. 222.

#### CERTIFICATION OF POSTING

This will confirm that the Notice of Intent to acquire a rail line owned by the Union Pacific Railroad Company was posted on \_\_\_\_\_, 2009, at Sheboygan, WI, to insure that all affected employees of the Union Pacific Railroad Company are properly notified of a proposed rail line transaction as provided under 49 CFR 1121.4(h).

Signed: \_\_\_\_\_ Title: \_\_\_\_\_

**LAW OFFICES**  
**JOHN D. HEFFNER, PLLC**  
**1750 K STREET, N W**  
**SUITE 200**  
**WASHINGTON, D C. 20006**  
**PH: (202) 296-3333**  
**FAX: (202) 296-3939**

BY HAND

February 13, 2009

Hon. Anne K. Quinlan  
Acting Secretary  
Surface Transportation Board  
395 E Street, SW  
Washington, DC 20423-0001

**RE: STB Finance Docket No. 35144**  
**Wisconsin & Southern Railroad Co. - Acquisition and**  
**Operation Exemption - Union Pacific Railroad Company**

**CERTIFICATE OF COMPLIANCE WITH 49 CFR §1121.4(h)**

Dear Secretary Quinlan:

I am writing on behalf of the Wisconsin & Southern Railroad Co. ("WSOR") in connection with the above-captioned proceeding.

On or after April 15, 2009, WSOR proposes to operate upon, over, under and across a permanent and exclusive freight easement conveyed by the Union Pacific Railroad Company ("UPRR") to WSOR to provide freight service upon the following line of railroad (the Line) which the Wisconsin Department of Transportation intends to purchase from UPRR:

The Line begins at the connection with WSOR's north-south Kiel-to-Saukville Line at UPRR Milepost 14.95 at Plymouth, and extends eastward to UPRR Milepost 4.0 near Kohler, all within the County of Sheboygan, State of Wisconsin.

Additionally, on or after April 15, 2009, WSOR further states that it intends to acquire by purchase from UPRR and

operate in its own right the following line of railroad, including yard and ancillary tracks and structures:

Approximately 1,000 feet of track, constituting the UPRR lead to the Cargill Malt Plant at 704 S. 15<sup>th</sup> Street, Kohler, WI.<sup>1</sup>

The trackage over which WSOR proposes to operate totals over 10 miles, including the segment WSOR which proposes to purchase.

WSOR currently generates annual revenues exceeding \$5 million. The annual revenues that WSOR is projected to generate after consummating this transaction are expected to continue to exceed \$5 million dollars.

By this instrument, and through its designated counsel, WSOR hereby certifies that, as of February 13, 2009, WSOR had complied with the advance notice requirements for a rail line transaction as prescribed by 49 CFR §1121.4(h). Specifically, and as is set forth in the attached documents, notice of the proposed transaction fully conforming to the provisions of 49 §1121.4(h) has been - (1) served upon the national offices of the labor unions with employees on the affected lines, and (2) posted at the workplaces of employees on the affected lines.

Simultaneously with this letter, WSOR is filing with the Board a petition for exemption pursuant to 49 U.S.C. 10502 from the requirements of 49 U.S.C. 10902 governing its proposed acquisition and operation of those rail lines described in the attached documents. WSOR does not anticipate consummating the proposed transaction until after April 15, 2009, at least 60 days from the date of posting this notice.

Any questions regarding this certification or the anticipated petition for exemption filing relating thereto should be addressed to the undersigned, WSOR's designated

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<sup>1</sup> WSOR believes this trackage may constitute "excepted track" under 49 U.S.C. 10905 for which no purchase authority is required. If so, no labor notice would be required